

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

<b>MICHAEL FOOTS,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>vs.</b>	)	<b>Case No. 21-cv-01008-JPG</b>
	)	
<b>KRISTOPHER THARP</b>	)	
<b>and PAUL SARHAGE,</b>	)	
	)	
<b>Defendants.</b>	)	

**ORDER DISMISSING CASE**

**GILBERT, District Judge:**

This case was opened on August 18, 2021, when it was severed from a *pro se* civil rights action filed pursuant to 42 U.S.C. § 1983 by Plaintiff Michael Foots and twelve other detainees at Madison County Jail. *See Evans v. Tharp, et al.*, Case No. 21-cv-00905-JPG (S.D. Ill.) (original case). In the original and severed cases, Plaintiff was repeatedly advised of his ongoing obligation to notify the Court of any address changes, in writing, within seven (7) days of the change. (Docs. 3 and 5, original case; Docs. 1, 11, and 13, severed case). Plaintiff was also warned that failure to do so could result in the dismissal of his case. (*Id.*).

After the Court screened the Complaint pursuant to 28 U.S.C. § 1915A (*see* Doc. 13), Plaintiff's mail was returned undeliverable. (*See* Docs. 14-15). Therefore, on April 13, 2022, the Court entered the following show cause order:

ORDER TO SHOW CAUSE: Plaintiff was advised of his continuing obligation to keep the Clerk of Court informed of any change in his address and that failure to timely update his address could result in dismissal of this action for want of prosecution. (See Doc. 1, p. 7; Doc. 13, p. 6). One or more documents mailed to Plaintiff by the Court has been returned undeliverable. (See Docs. 14 and 15). Plaintiff is hereby ORDERED to SHOW CAUSE on or before APRIL 27, 2022, why this action should not be dismissed based on his failure to comply with the Courts Orders at Docs. 1 and 13 to update his address and for failure to prosecute his claims. FED. R. CIV. P. 41(b). Plaintiff is WARNED that failure to respond

to this Order will result in dismissal of the action without prejudice. The Clerk is DIRECTED to transmit a copy of this Order to Show Cause to Plaintiff at the address he most recently provided to the Court.

(Doc. 16). To comply with the order, Plaintiff was required to update his address and/or explain why this case should not be dismissed for non-compliance with the Order. (*Id.*). The deadline for doing so was April 27, 2022. (*Id.*).

Before the deadline expired, the Order to Show Cause was returned to the Court undeliverable on April 22, 2022. (*See* Docs. 16-17). Plaintiff then failed to respond to it by the deadline. He also failed to notify the Court of his address change. Plaintiff did not request an extension of the deadline for doing so.

The Court will not allow this matter to linger indefinitely. This action will be dismissed with prejudice based on Plaintiff's failure to comply with the Orders at Documents 3 and 5 in the original case and Documents 1, 11, and 13 in the severed case. *See* FED. R. CIV. P. 41(b). The dismissal shall not count as one of Plaintiff's three allotted "strikes" within the meaning of 28 U.S.C. § 1915(g).

### **Disposition**

**IT IS ORDERED** that this action is **DISMISSED** without prejudice, based on Plaintiff's failure to comply with the Court's Orders (Docs. 3 and 5, original case; Docs. 1, 11, and 13, severed case) to notify the Court of any address changes, to comply with the Court's Order to Show Cause at Document 16, and to prosecute his claims in this case. *See* FED. R. CIV. P. 41(b); *Ladien v. Astrachan*, 128 F.3d 1051 (7th Cir. 1997); *Johnson v. Kamminga*, 34 F.3d 466 (7th Cir. 1994). This dismissal does not count as one of Plaintiff's three allotted "strikes" within the meaning of Section 1915(g).

**IT IS ORDERED** that Plaintiff's obligation to pay the filing fee for this action was incurred at the time the action was filed, regardless of subsequent developments in the case. Accordingly, the filing fee of \$350.00 remains due and payable. *See* 28 U.S.C. § 1915(b)(1); *Lucien v. Jockisch*, 133 F.3d 464, 467 (7th Cir. 1998).

The Clerk's Office is **DIRECTED** to close this case and enter judgment accordingly.

**IT IS SO ORDERED.**

**DATED: 4/28/2022**

s/J. Phil Gilbert  
**J. PHIL GILBERT**  
**United States District Judge**